

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

)	
Nancy L. Bogart,)	
Plaintiff,)	
)	
v.)	Civ. No. 1:11cv725
)	
Salvation Army, Inc.,)	
)	
Defendant.)	
)	

MEMORANDUM OPINION

THIS MATTER came before the court on plaintiff's Motion to Amend (Doc. 29) and defendant's Motion to Strike Plaintiff's Jury Demand (Doc. 34). The Court has reviewed the pleadings.

The Court finds that the proposed First Amended Complaint contains sufficient factual allegations to state a claim for relief as required by Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) and Ashcraft v. Iqbal, 129 S. Ct. 1937 (2009). At this stage, the Court does not find the Complaint to be futile and is required to give leave to amend "when justice so requires." Fed. R. Civ. P. 15(a)(2).

The Court further finds that plaintiff's Request for Jury Trial (Doc. 32) was not timely filed and therefore should be stricken. Although Judge Lee dismissed plaintiff's original Complaint without prejudice while giving her the opportunity to re-file, she "must remain bound to [her] waiver of a jury trial

on the basis of the original pleadings." See Cardio-Medical
Assocs., Ltd. v. Crozer-Chester Med. Ctr., 721 F.2d 68, 76-77
(3d. Cir. 1983).

Therefore, plaintiff's Motion to Amend (Doc. 29) is GRANTED
and defendant's Motion to Strike Plaintiff's Jury Demand (Doc.
34) is GRANTED. An appropriate Order shall be issued.

ENTERED this 29th day of September, 2011.

/s/

THERESA CARROLL BUCHANAN
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia